

STANLEY H. KREMEN

REGISTERED PATENT AGENT
REGISTRATION NO. 51,900

4 LENAPE LANE
EAST BRUNSWICK, NJ 08816

—
(732) 251-3623
FAX: (732) 723-9155
SHK@SHK-DPLC.COM

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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FILED ELECTRONICALLY VIA EFS-WEB

In RE:

Application No.: 08/807,567
Date Filed: February 28, 1997
Confirmation No.: 5176
Inventor: Richard Joel Petrocy
Title of Invention: SELF ADDRESSING CONTROL UNITS AND
MODULAR SIGN INCLUDING PLURALITY OF
SELF-ADDRESSING CONTROL UNITS
Atty. Docket No.: 277301
Group Art Unit: 2786
Examiner: Ramesh B. Patel

ADDITIONAL SHEETS ACCOMPANYING FORM SB0064
EXPLAINING UNINTENTIONAL DELAY

Dear Sir:

An accompanying petition, Form PTO/SB/64 has been filed to revive the above referenced application (hereinafter the '567 Application) because it was unintentionally abandoned by the Applicant.

PROSECUTION HISTORY

The '567 Application was filed on February 28, 1997. On June 17, 1998, the USPTO mailed an office action to Applicant's then Attorney of Record, Michael R. Friscia, USPTO Registration No. 33884. Sometime during 1998, the Applicant suffered severe financial hardship, and was unable to pay his attorney's invoices. Consequently, Attorney Friscia petitioned the USPTO for permission to withdraw from representation of the Applicant, and his petition was granted on September 30, 1998. Thereafter, the Applicant attempted *pro se* representation.

On June 17, 1998, an Office Action comprising a non-final rejection was mailed to the Applicant's attorney. On November 3, 1998, the Examiner conducted an interview with the Applicant. During this interview, the Examiner attempted to assist the Applicant. However, for reasons discussed below, the Applicant was unable to respond to the Office Action of June 17, 1998. The '567 Application became abandoned on December 18, 1998, and a notice of abandonment was mailed to the Applicant on January 25, 1999.

On January 21, 1999, the Applicant promptly filed a petition to revive the '567 Application for having been abandoned unavoidably. The petition was dismissed on September 22, 1999, as the Applicant failed to provide a satisfactory explanation of unavoidable abandonment. For reasons explained below, the Applicant was unable to continue prosecution of the '567 Application.

EXPLANATION OF UNINTENTIONAL ABANDONMENT

Submitted with this explanatory letter is a copy of an evaluation report regarding the Applicant's severe learning disabilities. The report was generated by Dr. Carol Rohman, a psychologist at Middlesex County College in New Jersey, and is titled: "Assessment Report." The report indicates that while the Applicant is highly intelligent and creative, he is severely dyslexic. He finds reading and writing to be extremely difficult. The report recommended that the Applicant requires academic adjustments guaranteed to him under Section 504 of the Americans with Disabilities Act of 1990.

I became acquainted with the Applicant sometime around the beginning of 2003. I agreed to represent him before the USPTO. Since that time, I filed approximately seventeen patent applications for him. He had a great many inventive ideas. Unfortunately, the Applicant is unable to communicate with me in writing. Everything had to be transmitted to me verbally.

On February 12, 2003, I became the Agent of Record for the '567 Application. The Applicant's former attorney, Michael Friscia, refused to provide me with a copy of his file for the '567 Application. Consequently, on July 24, 2003, I requested that the USPTO provide me with a copy of the file wrapper. When I received the USPTO documents, I noticed that the Applicant was unable to read them. He required me to read them to him. I found him to be virtually illiterate.

While representing himself *pro se* in prosecuting the '567 Application before the USPTO between October 1998 and September 1999, the Applicant was totally unable to communicate effectively in writing with the PTO. He submitted the Petition to Revive Based Upon Unavoidable Abandonment in error, and he did not realize that he was required to supply an explanation why abandonment was unavoidable. Had he filed a Petition to Revive Based Upon Unintentional Abandonment at that time, it would have probably been granted. The Applicant had no intention to abandon the '567 Application at that time. However, once his petition to revive was dismissed, he had no concept of what to do from that point forward.

APPLICANT'S SUBSEQUENT ACTIVITY

During the time period following abandonment, the Applicant succeeded in reducing his invention to actual practice. The invention described in the '567 Application produces improved LED displays. In September 2002, the Applicant attempted to create and file a provisional patent application to include improvements to LED display systems that included the invention covered by the Application. The invention described in the '567 Application represented a small part of that provisional application. Unfortunately, the provisional application was unusable for a priority claim because it was extremely disorganized.

On September 25, 2003, because the Applicant was unwilling to abandon the invention disclosed in the '567 Application, I filed US Provisional Patent Application Serial No. 60/481,421 (hereinafter the '421 Application), and on September 27, 2004, I filed its non-provisional counterpart, US Patent Application Serial No. 10/950,942 (hereinafter the '942 Application) on the Applicant's behalf. The specifications of the '421 Application and the '942 Application as filed are virtually identical to the '567 Application. The '421 and '942 Applications were filed as new patent applications because the '567 Application had been in an abandoned state for such a long time. According to information supplied to me by USPTO personnel at that time, the Applicant had waited too long to petition the Office for revival based upon unintentional abandonment. A period greater than two years had elapsed.

We were recently informed by USPTO personnel that a petition to revive an abandoned application based upon unintentional abandonment could be granted for good reason despite the undue passage of time, but that a revival would not be automatically granted.

On April 18, 2007, an Office Action for the '942 Application was mailed to the Applicant that rejected claims based upon prior art dated between 2001 and 2004. On August 20, 2007, the Applicant submitted an affidavit swearing behind the cited art under 37 CFR §1.131. On October 16, 2008, I attended an interview with the Examiner and her SPE to discuss the affidavit. On December 31, 2008, an Office Action was mailed affirming the rejection of claims based upon Prosecution Laches (MPEP §2190). On September 21, 2009, a non-final Office Action was mailed affirming the rejections due to abandonment of the '567 Application.

THE NECESSITY FOR REVIVAL OF THE '567 APPLICATION

Although the Applicant can prove prior conception of his invention, and the Applicant worked diligently to reduce his invention to actual practice, the fact that the '567 Application was abandoned and not revived appears to render his swearing behind subsequent prior art ineffective. The Applicant understands that revival of the '567 Application would reduce the effective term of enforcement for his invention.

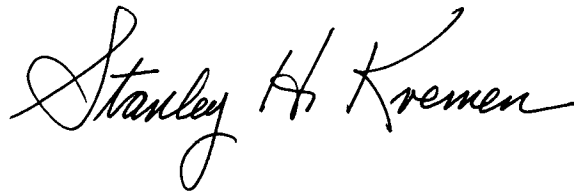
REQUEST FOR REVIVAL

The activity of the Applicant following abandonment of the '567 Application proves that the Applicant never had any intention to abandon his invention or the '567 Application. He never intended to dedicate his invention to the public. In a timely manner, he mistakenly petitioned the USPTO for revival based upon unavoidable abandonment. When that petition was dismissed, not knowing what else to do, he worked on reducing his invention to actual practice. When he engaged my services, he filed a virtually identical patent application to cover the same invention.

The circumstances surrounding the Applicant's abandonment of the '567 Application were beyond the Applicant's control. The Applicant's ability to read and write are extremely limited. He could not effectively represent himself *pro se*, and he could not afford to pay a patent practitioner. After securing my present representation, he re-filed virtually identical patent applications. It appeared to the Applicant that he had no alternative.

Therefore, based upon the circumstances, it should be apparent that the Applicant had no intention to abandon his invention or the '567 Application. Even though a decade has elapsed since abandonment, the Applicant respectfully requests that US Patent Application Serial No. 08/807,567 be revived for having been abandoned unintentionally.

Respectfully submitted,

A handwritten signature in black ink that reads "Stanley H. Kremen". The signature is written in a cursive, flowing style with a large initial 'S'.

Stanley H. Kremen,
Registered Patent Agent
Registration No. 51900
Customer No. 34325